IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3785 of 2001
with
CIVIL APPLICATION No 9409 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AHMEDABAD MUNCIPAL CORPORATION
Versus
JAYANTILAL PREMCHAND

Appearance:
MR MAULIN R RAVAL for Appellant
MR SA DESAI for Respondent

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 26/09/2001

COMMON ORAL JUDGEMENT
(Per : MR.JUSTICE B.C.PATEL)

#. Admit. Mr. S.A. Desai, learned counsel, appearing for the respondent waives service of notice of admission.

#. At the request of the learned counsel for the parties, this appeal is taken up for final hearing.

#. The present appeal is filed against the order made by the Small Cause Court in Municipal Valuation Appeal No. 3453/98 on 21.3.2000 in respect of the property situated in Ellisbridge Ward bearing Survey No. 5/6/A/1/F/2, which is used for commercial purpose. Gross Rateable Value was fixed by the respondent - Corporation at Rs. 91,565/for the assessment year 1997-98. Before the Small Cause Court, it appears that the amount paid to the contractor was indicated. What amouont was paid is not clearly stated. No document is produced before the Court as to what is the purchase price of the property in question and threfore, in our opinion, without any material on record, either in the form of sale deed or valuer's report or allotment letter or the amount paid for purchasing the property, it is not proper to decide the matter. Therefore, the impugned judgment is requried t be quashed and set aside with a direction to the Small Cause Court to dispose of the appeal in accordance with law. It will be open for the present appellant as well as respondent to lead evidence before the Small Cause Court.

#. The Small Cause Court is directed to dispose of the appeal within a period of two months from the date of receipt of the writ in this matter. If the parties are not cooperating, then in that case, without giving further opportunity, the Court shall dispose of the matter on the basis of the material which is placed on the record. If the parties are not cooperating, the SmallCause Court shall also make report to this Court within a period of three months.

#. With this direction, the appeal stands allowed. Civil Application is not required to be entertained in view of the order passed in appeal and therefore, the Civil Application for stay is rejected.

[B.C. PATEL, J.] [SHARAD D. DAVE, J.]

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